UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,154	11/12/2003	Erol Bozak	09700.0033-00	8247

22852   7590   11/13/2007
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EXAMINER
KISS, ERIC B

ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
11/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 August 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-7</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-7</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>20070614</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   The reply filed August 28, 2007, has been received and entered. Claims 1-7 are pending.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-3 have been considered but are moot in

view of the new ground(s) of rejection.

3.   Applicant's arguments with respect to claims 4-7 have been fully considered but they are

not persuasive.

Regarding claim 4, the examiner maintains that *Kurowski et al.* discloses a second

computer configured to execute a service (see, e.g., paragraph [0061] (client receives a task from

the task server); paragraph [0092] (application modules are downloaded)), wherein the service,

upon request from the first application manager, installs and executes a first application (see,

e.g., paragraphs [0156], [0259] (settings and state are stored in files), [0156] (a part of the

memory is allocated to the application)). The client machine of *Kurowski et al.* is a "second

computer", and the self-extracting EXE of *Kurowski et al.* (automatically installing the client on

user's machine) invokes the installation "service" on the client machine.

Information Disclosure Statement

4.   The information disclosure statement filed June 14, 2007, fails to comply with the

provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because each publication listed in an

information disclosure statement must be identified by publisher, author (if any), title, relevant

pages of the publication, date, and place of publication. 37 CFR 1.98(b)(5). They have been

placed in the application file, but the information referred to therein has not been considered as

to the merits, except as initialed by the examiner. Applicant is advised that the date of any re-

submission of any item of information contained in this information disclosure statement or the

submission of any missing element(s) will be the date of submission for purposes of determining

compliance with the requirements based on the time of filing the statement, including all

certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6.   Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the enablement requirement. The claim(s) contains subject matter which was not described in

the specification in such a way as to enable one skilled in the art to which it pertains, or with

which it is most nearly connected, to make and/or use the invention.

Claims 1-3 rely on the labels "inferior" and "superior" in describing a hierarchical

network of computers. The specification appears to describe these features only in terms of a

proposed hierarchical relationship between grid managers, where these relationships somehow

provide indirect access to other computers (Specification para. [0026]), and that lists of

inferior/superior relations are stored (*id.* at para. [0027]). Further, Fig. 1 is purported to illustrate

inferior/superior relations (Specification at [para. [0026] (grid manager 152 has a superior

relation with grid managers 154 and 156)). However, the original disclosure (including the

original drawings and claims) omits certain information necessary to carry out the claimed

invention: (1) the definition of an inferior or superior computer, (2) the relevant configurations of

each of the inferior or superior computers, and (3) the necessary steps to configure a computer as

an inferior or superior computer. Accordingly, one of ordinary skill in the art would not have

been able to practice the claimed invention without undue experimentation.

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8.   Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

As discussed above with regard to the rejection under § 112, first paragraph, the terms

"inferior" and "superior" are not clearly defined in the original disclosure. The terms "inferior"

and "superior" are not defined by the claim, the specification does not provide a definition or

other standard for ascertaining the qualities of an inferior or superior computer, and one of

ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Accordingly, claims 1-3 are indefinite.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10.   Claims 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. App.

Pub. No. 2002/0019844 (Kurowski et al.).

As per claim 4, *Kurowski et al.* discloses a network comprising:

a first computer configured to execute a first application manager that manages a first application (see, e.g., paragraph [0061] (client receives a task from the task server)); and

a second computer configured to execute a service (see, e.g., paragraph [0061] (client receives a task from the task server); paragraph [0092] (application modules are downloaded)), wherein the service, upon request from the first application manager, installs and executes a first application by making modifications to the second computer to install and execute the first application on the second computer (see, e.g., paragraph [0156]) while recording the modifications (see, e.g., paragraph [0259] (settings and state are stored in files)), wherein the modifications comprise allocating a resource to the first application manager (see, e.g., paragraph [0156] (a part of the memory is allocated to the application)).

As per claim 5, *Kurowski et al.* further discloses the service, upon request from the first application manager, being configured to:

halt the first application on the second computer (see, e.g., paragraph [0147]);

reverse a portion of the modifications to the second computer according to the recorded modifications, reversing comprises deallocating the resource from the first application manager (see, e.g., paragraph [0157]); and

make re-modifications to the second computer to install and execute a second application on the second computer while recording the re-modifications, wherein the re-modifications comprise allocating the resource to a second application manager (see, e.g., paragraph [0158]).

As per claim 6, *Kurowski et al.* further discloses the re-modifications comprising at least one of setting a communications port or saving the one or more files to a data storage device

accessible to the second computer (see, e.g., paragraph [0156] (saving the files making up the

application to the local hard disk of the client computer)).

As per claim 7, *Kurowski et al.* further discloses the first and second applications having

a respective type and the network is further configured to:

compare the second application type to the first application type and to the at least one

other application type (see, e.g., paragraphs [0154] and [0158] (a locally cached version of the

computation module is used if available)); and

if at second application has the same type as either the first application or the at least one

other application, reverse a portion of the modifications and allocating the resource without re-

modifying the second computer to install and execute the second application (see, e.g.,

paragraphs [0154] and [0158] (a locally cached version of the computation module is used if

available)).

Conclusion

11.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

12.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Eric B. Kiss whose telephone number is (571) 272-3699. The

Examiner can normally be reached on Tue. - Fri., 7:00 am - 4:30 pm. The Examiner can also be

reached on alternate Mondays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Tuan Dam, can be reached on (571) 272-3695. The fax phone number for the

organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature should be directed to the TC 2100 Group receptionist:

571-272-2100.

Eric B. Kiss
November 12, 2007